

The Honorable Ricardo S. Martinez

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
SEATTLE DIVISION**

AMANA GLOBAL COMPANY, a sole
proprietorship company, and HAFID
TAHRAOUI, an individual,

Plaintiffs,

v.

KING COUNTY, a charter county of the State of
Washington, and JOSH BALDI, in his official
capacity, and DOES 1 through 10, inclusive,

Defendants.

No. 21-CV-00637-RSM

KING COUNTY'S RESPONSE TO
PLAINTIFFS' MOTION FOR A
TEMPORARY RESTRAINING
ORDER AGAINST DEFENDANTS

I. Introduction and Relief Requested

Defendant King County (the “County”) requests the District Court to stay jurisdiction of Plaintiffs’ (hereinafter “Tahraoui”) federal claims until Tahraoui has exhausted his state court remedies regarding their eviction. If the Court determines it wishes to consider Tahraoui’s Motion for a Temporary Restraining Order (“TRO”), it should deny the motion for the reasons set forth below.¹ Finally, if the Court issues a TRO, it should set the bond amount at \$2.5 million.

¹ As an example, the relief requested in Tahraoui's Motion for a TRO would abrogate the King County Superior Court's Order of November 12, 2019 condemning Tahraoui leasehold interest and the King County Superior Court's Order of March 12, 2021 authorizing issuance of a Writ of Restitution to evict Tahraoui from the County's Warehouse. See Motion for a TRO at page 4, lines 1-10.

II. Plaintiff's Motion for a TRO

Tahraoui failed to file a proposed order with Motion specifically setting forth the relief requested and describing in reasonable detail the act or acts to be restrained or required in violation of LCR 65(b)(4). In addition, Tahraoui 35 page motion exceeded the 24 page limit for Motions for TROs set forth at LCR 7(e) (3).

III. Statement of Relevant Facts

In August 2016, King County purchased real property located at 22230 Russell Road, Kent, WA 98032 (the "Property"), which features a large warehouse and adjacent yard. Declaration of Josh Baldi at ¶ 3. The County, in partnership with the King County Flood Control Zone District, purchased the Property for the completion of the Lower Russell Levee Setback flood protection project (the "Project"). Id. at ¶ 4. The Project, which will provide flood management benefits to the residents of King County, requires the demolition of the warehouse where Tahraoui's personal property is currently located ("County Warehouse"). Id. After the purchase, the County, at its own expense, relocated all warehouse tenants except for Tahraoui. Id. at ¶ 5. Throughout 2016, 2017, and 2018, Tahraoui and the County could not reach agreement as to terms to voluntarily relocate Tahraoui's personal property from the County Warehouse. Id. at ¶ 6.

Accordingly, on July 24, 2018, the County filed an eminent domain action to condemn Tahraoui's leasehold and ensure that the County could take possession of the warehouse as soon as possible to complete the Project. Declaration of John Briggs, Exhibit 1. On November 12, 2019, the Court entered a Final Judgment, Decree of Appropriation and Order of Disbursement which expressly terminated Tahraoui's leasehold. Declaration of John Briggs, Ex. 2.

1 Even with the condemnation Order in hand, the County and its professional relocation
 2 agents continued to attempt to relocate Tahraoui at the County's expense. Declaration of Josh
 3 Baldi at ¶ 7. Those attempts were unsuccessful and the County then had no choice but to file an
 4 unlawful detainer action to evict Tahraoui from the County warehouse in January 2020. When
 5 the Tahraoui showed signs that he wished to cooperate in moving his personal property from the
 6 County Warehouse in spring 2020, including executing a lease with another warehouse in
 7 Chehalis, the County put the unlawful detainer action on hold. Id. at ¶ 8-9.

8 When Tahraoui still had not vacated the County's Property by February 2021 (with the
 9 County continually, and in writing, committing to pay all moving expenses), the County was left
 10 with no other options but to file a Motion to Show Cause requesting the issuance of a Writ of
 11 Restitution. On March 12, 2021, King County Superior Court Commissioner Mark Hillman
 12 granted King County's Motion for an Order authorizing the issuance of a Writ of Restitution.
 13 Declaration of John Briggs, Ex. 3. After a nearly two month stay of further execution of the Writ
 14 of Restitution, the stay was lifted and Tahraoui was evicted on May 10, 2021. Declaration of
 15 Hafid Tahraoui in support of the Motion for a Temporary Restraining Order at Id. at ¶ 6.
 16 Nevertheless, the County on May 11, 2021 sent a letter to Tahraoui restating its commitment to
 17 provide relocation benefits. Declaration of John Briggs, Exhibit 4.

18 If the County is unable to take control of the County Warehouse by July 1, 2021 and
 19 quickly demolish it, the required work in the area of the warehouse described above will likely to
 20 be delayed until 2022 which will require the County to execute a \$2.5 million dollar change
 21 order with its contractors. Declaration of Josh Baldi at ¶ 7. Obviously, before the County's
 22 contractor can raze the warehouse, Tahraoui's personal property needs to be relocated. Since
 23 Tahraoui did not do so, the County will need to remove it, a process that will take —by

1 conservative estimate—thirty to sixty days. Id at ¶16. If the warehouse cannot be razed by
2 August 1, 2021, it is likely the County will be presented with a \$2.5 million change order. Id. at
3 ¶17.

4 **III. Statement of Issue**

5 **Should the federal Court exercise jurisdiction and issue a TRO?**

6 **Answer: No.**

7 **Has Tahraoui made the necessary showing that is required before this Court is able to**
8 **exercise its discretion to issue a TRO?**

9 **Answer: No.**

10 **Is the scope of relief requested in Tahraoui's Motion for a TRO improper?**

11 **Answer: Yes**

12 **If the Court issues the TRO, should it require Tahraoui to post a bond in the amount of**
13 **\$2.5 million?**

14 **Answer: Yes**

15 **IV. Evidence Relied Upon**

16 The County relies upon the pleadings and records filed in this matter, as well as the
17 Declarations of Josh Baldi and John Briggs submitted herewith, including all exhibits thereto.

18 **V. Authority**

19 **1. This Court should defer asserting jurisdiction over Tahraoui's federal constitutional**
20 **claims until the conclusion of his appeal of the state court eviction action.**

21 Tahraoui asserts that the County utilized the unlawful detainer statute codified at RCW
22 59.12 to deny his federal Universal Relocation Act claims. The state trial court did not reach a
23 conclusion as to the validity of Tahraoui's federal claims. Tahraoui has stated that he is in the

process of filing an appeal of the trial court's decision with the Washington State Court of Appeals. The Court should use its discretion and defer consideration of Tahraoui's federal damage claims pending the conclusion of the state court proceedings. See Kessler Inst. for Rehab., Inc. v. Mayor & Council of Borough of Essex Fells, 876 F. Supp. 641, 662 (D.N.J. 1995).

2. A TRO has one purpose.

Courts properly use their discretion to issue a TRO in order to preserve the court's ability to render a meaningful decision on the merits. See Wright & Miller, Federal Practice and Procedure: Civil § 2947. Absent that concern, a TRO should not be issued. "Thus only those injuries that cannot be redressed by the application of a judicial remedy after a hearing on the merits can properly justify a preliminary injunction." Canal Auth. of State of Fla. v. Callaway, 489 F.2d 567, 572–73 (5th Cir. 1974). The "status quo" preserving function of a TRO greatly limits the scope of any TRO. The hearing on a TRO

...is not to be transformed into a trial of the merits of the action upon affidavits, and it is not usually proper to grant the moving party the full relief to which he might be entitled if successful at the conclusion of a trial. This is particularly true where the relief afforded, rather than preserving the status quo, completely changes it." Yet this is what Judge Clarke's order does, and it is based upon findings that purport to determine that Tanner breached the contracts, that its breaches could not be cured, and that Tanner has no substantial defense to the action. These are matters to be determined at trial, not upon the motion for preliminary injunction.

Tanner Motor Livery, Ltd. v. Avis, Inc., 316 F.2d 804, 808–09 (9th Cir. 1963).

Tahraoui requests the Court to issue a TRO that would change the status quo rather than preserve it. Tahraoui asks this Court, through the issuance of a TRO, to roll back the clock until November 11, 2019. At that time, Tahraoui had a valid lease at the County Warehouse.

Tahraoui asks the Court to issue a TRO that would invalidate the condemnation of his leasehold interest by the King County Superior Court's November 12, 2021 Decree of Appropriation and his eviction from the County's Warehouse authorized by the Writ of Restitution issued by the King County Superior Court on March 12, 2021. Tahraoui's proposed relief is far beyond the scope of a TRO.

3. Tahraoui carries the heavy burden of establishing that issuance of a TRO is proper.

Before a temporary restraining order may be issue, a plaintiff must establish: (1) a likelihood of success on the merits; (2) that irreparable harm is likely in the absence of preliminary relief; (3) that the balance of equities tips in the plaintiff's favor; and (4) that an injunction is in the public interest. Winter v. Natural Res. Def. Council, Inc., 555 U.S. 7, 20 (2008). "In considering these four prerequisites, the court must remember that a preliminary injunction is an extraordinary and drastic remedy which should not be granted unless the movant clearly carries the burden of persuasion." Canal Auth. of State of Fla. v. Callaway, 489 F.2d 567, 573 (5th Cir. 1974). The burden of persuasion on in all of the four requirements is at all times upon the plaintiff." Id. at 573.² Tharaoui fails to meet that burden of persuasion.

a. Likelihood of Success on the Merits

The crux of the Tahraoui's lawsuit before this Court is that he was (1) deprived of his rights to relocation assistance and (2) the County has misused the summary proceeding of the UD to accomplish that deprivation. Tahraoui's claims are untenable. Since 2016, the County has unwaveringly provided relocation assistance to him. Even after his leasehold was condemned by the King County Superior Court on November 12, 2019, the County still provided relocation

² When a government, such as the County, is the party opposing the motion, the third and fourth factors merge into one. Nken v. Holder, 556 U.S. 418, 129 S. Ct. 1749, 1753, 173 L. Ed. 2d 550 (2009).
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1 assistance to Tahraoui throughout 2020 and the first four months of 2021. See Declaration of
 2 Josh Baldi at Id. at ¶ 9-15. Even after Tahraoui was evicted from the County Warehouse, the
 3 County committed to paying him relocation benefits. Declaration of John Briggs, Exhibit 4.

4 The County did not evict Tahraoui from the County Warehouse to deny him relocation
 5 benefits. Rather, it evicted him so it could relocate his personal property to his replacement
 6 warehouse in Chehalis in time to complete the Project this summer. Declaration of Josh Baldi
 7 Id. at ¶ 16-18. On January 29, 2020 the County stated that, at the Tahraoui's request, it would
 8 pay all relocation costs directly to all move contractors. During the summer of 2020 the County
 9 agreed to pay and did pay the first five months of rent and utilities (\$32,500) at the warehouse in
 10 Chehalis to which Plaintiff requested its personal property be relocated. Declaration of Josh
 11 Baldi at Id. at ¶ 9-15. At the same time the County paid Tahraoui \$50,000 payment for
 12 "reestablishment expenses" authorized by WAC 468-100-306. Id.

13 Concerned that Tahraoui's delay in relocating its personal property would delay
 14 completion of the \$54 million Lower Russell Road Levee relocation project, the County was
 15 forced to seek issuance of a Writ of Restitution. The Writ was posted at the County warehouse
 16 on March 22, 2021 and executed by the King County Sheriff on May 10, 2021. Despite the
 17 Tahraoui being evicted from the County's warehouse, on May 11, 2021, the County once again
 18 offered to relocate, at the County's expense, Tahraoui's personal property to the Chehalis
 19 warehouse. Briggs Declaration, Exhibit 4.

20 **b. Irreparable harm to Tahraoui will not result if the Court denies the Motion**
 21 **for a TRO.**

22
 23 (2009).

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1 The County has steadfastly committed to relocating Tahraoui's personal property to the
 2 warehouse in Chehalis, as late as last week after Tahraoui was evicted. Declaration of John
 3 Briggs, Exhibit 4. Tahraoui argues that unless a TRO is issued, he will be deprived of his
 4 personal property forever because the County is moving quickly to dispose of Plaintiff's property
 5 from the County Warehouse. Even if Tahraoui's claim were true and the County planned on
 6 auctioning off Plaintiff's property, that action would not cause Tahraoui irreparable harm, a
 7 required showing before a TRO can be issued. "The possibility that adequate compensatory or
 8 other corrective relief will be available at a later date, in the ordinary course of litigation, weighs
 9 heavily against a claim of irreparable harm." United States v. Jefferson Cty., 720 F.2d 1511,
 10 1519–20 (11th Cir. 1983). Even if the County sold Tahraoui's personal property, rather than
 11 relocating it as it has pledged to do from 2016 to the present, Tahraoui could not make the
 12 showing of irreparable harm since the trial court could require the County to pay him for the
 13 value of his personal property.

14 **c. The balance of the equities in this case favors the County**

15 The Court should not grant Tahraoui's Motion for a TRO because the balance of equities
 16 favor the County and the possibility for harm to the County if a TRO is issued is extremely
 17 likely. The County has been unwavering in its commitment of resources and funds to move
 18 Tahraoui's personal property to his warehouse in Chehalis. Tahraoui asked the County to make
 19 advance payments to all contractors that will provide relocation services. The County agreed.
 20 Tahraoui asked the County to make his August, September, October and December rent/utility
 21 payments at the Chehalis warehouse so that he could have time to relocate his personal property
 22 from the County's warehouse by December 31, 2020. The County paid him. Declaration of
 23 Josh Baldi at ¶ 10. Tahraoui requested the County to pay \$50,000 in reestablishment funds. The

1 County paid him. Id. The County has done all in its power to aid Tahraoui relocate his personal
2 property from the County's Warehouse.

3 Contrast the County's relocation actions to the actions of Tahraoui. Despite the fact that
4 his leasehold for a portion of the County's warehouse was condemned on November 12, 2019,
5 Tahraoui has illegally occupied the County's warehouse without payment ever since. After
6 promising to relocate his personal property from the County's warehouse by December 31, 2020,
7 in November 2020, Tahraoui presented the County with a new relocation timeline that delayed
8 the relocation of his personal property from the County's warehouse until April 15, 2021. Baldi
9 Declaration Baldi at ¶ 14. Amazingly, Tahraoui then requested the County to pay his rent/utility
10 payments at the Chehalis warehouse for January, February, March and April of 2021. Id. The
11 County committed to making those payments if Tahraoui would enter into contracts with the
12 move contractors. He refused to do so. Id. at ¶ 14. As of the date of this response, Tahraoui has
13 not provided the County with one executed contract with a move vendor. Id. at ¶ 15.

14 The County will be harmed if the TRO is issued. Tahraoui asks this Court to issue a
15 TRO that will give him exclusive control of the County Warehouse. Time of is of the essence in
16 allowing the County's contractor to complete work on essential features of the Project in the area
17 of the County Warehouse during the summer 2021 construction season. The Contractor cannot
18 begin any of that work until the County's warehouse is razed. If Tahraoui's personal property is
19 not removed from the County Warehouse in the next few months, work on the Project will be
20 delayed until the 2022 construction season. Declaration of Josh Baldi at ¶ 7 This delay will
21 most likely lead to the County being presented with a \$2.5 million change order from the
22 contractors working on the Project. Id. at ¶ 17. In light of that harm to the County and the
23 residents of King County, the Court should deny Tahraoui's Motion for a TRO.

1 **4. If the Court grants the TRO, it should require a bond of \$2.5 million to compensate**
2 **the County for its likely damages.**

3 For the reasons set forth above, the Court should require a \$2.5 million bond in light of
4 the change order in that amount the County will have to pay if the project cannot be completed
5 this summer.

6 **VI. Conclusion**

7 For the reasons set forth above, the Court should deny Tahraoui's Motion for a TRO. If
8 the Court issues a TRO, it should require Tahraoui to post a \$2.5 million bond.

9 DATED this 17th day of May, 2021.

10 DANIEL T. SATTERBERG
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CERTIFICATE OF FILING AND SERVICE

I hereby certify that on May 17, 2021 I electronically filed the foregoing document with the Clerk of the Court using the KCSC E-Filing System.

On the same day, I also caused a copy of the foregoing document to be served on the following parties in the manner noted below:

Abdulhafid Tahraoui
Defendant Pro Se
hafid1416@yahoo.com
(Via KCSC E-Service)

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

SIGNED and DATED this 17th day of May, 2021 at Seattle, Washington.

By: 
NATALIE BROWN
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